UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

United States,

Plaintiff

vs.

Konstantin Yaroshenko,

Defendant.

09-cr-00524

MOTION FOR LEAVE TO FILE A RESPONSE TO GOVERNMENT'S SUBMISSION

NOW INTO COURT COMES defendant Konstantin Yaroshenko, by and through his undersigned counsel, and hereby submits the foregoing Motion for Leave to File a Response to Government's Submission. As grounds for granting this motion, defendant would show the following:

1. On November 14, 2014, this Court issued an order directing the government to file a sworn declaration by persons with knowledge stating whether any recordings of Chigbo Peter Umeh and one of the Drug Enforcement Administration ("DEA") confidential sources were in existence that have not been turned over to the defense.

2. On November 20, 2014, the government submitted two declarations, one by AUSA Randall Jackson and another by DEA agent Eric Stouch, substantially to the effect that no such recording were made.

3. In denying the existence of any secret recordings, both AUSA Randall Jackson and DEA agent Eric Stouch used the phrase "I do not believe any undisclosed recordings were made by Santiago." The verb "believe" naturally conveys a much lesser degree of certainty as to

whether any recordings were in fact made when compared to other words that the affiants could have used, such as "affirm" or "declare."

4. Following the government's submission in response to this Court's order, the undersigned contacted Chigbo Umeh and discussed with him the grounds for his belief as to Santiago's use of recording equipment. What gives Chigbo Umeh nearly total confidence as to the fact that his conversations with Santiago in Liberia and elsewhere were recorded is that Santiago had the same kind of handbag as Nabil. According to Chigbo Umeh, it was made by either Monteblanc or Bally Fashion Designer, and was a perfect place to conceal a recorder for audiotaping the parties' conversations. *See* Exhibit "I" to Corrected New Trial Motion at 5.

5. In addition, the name Santiago in the government's response appears in quotation marks throughout the filing. This gives an indication that "Santiago" is not the real identity of that confidential informant.

6. In his proposed response to the government's submissions, the undersigned would like to more thoroughly address the factual basis as to whether Santiago had recording equipment. In addition, the undersigned would like to explore whether there are any other secret recordings, including recordings of Yaroshenko's cellular telephone calls with the confidential informants that have not been turned over to the defense. Lastly, the undersigned would like to ascertain the identity of "Santiago" and explore the significance of the government's withholding of that operative's true identity.

7. Since finding answers to the questions arising out of the government's submission will involve traveling to distant places, the undersigned would like to request four weeks, until December 19, 2014 to file a response to the government's submission.

WHEREFORE, premises considered, defendant requests that this Court grant him leave to file a response to the government's most recent submission by December 19, 2014.

Respectfully submitted,

/s/ Alexey Tarasov

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CERTIFICATE OF SERVICE

I hereby certify that the attached pleading styled has been served via the ECF system on:

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Respectfully submitted
this 21st day of November 2014

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